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SUBJECT: STRIKE OUT! MALI'S MAGISTRATES RETURN TO WORK

1.(SBU) Summary: During the month of May, a long-running dispute between the Malian government and the two magistrate labor unions SAM and SYLIMA threatened to paralyze the Malian legal system. One union, and then the other, launched strikes of unlimited duration to protest the government's failure to implement new pay schedules. The two magistrate unions were joined in their strike by the members of the clerks of court union, SYNAG. While the larger and more moderate Autonomous Union of Magistrates (SAM) returned to work on May 18, members of the Free Union of Magistrates (SYLIMA) and of the clerks of court union only resumed their duties on June 2, after the government threatened to find replacements for the striking magistrates. In meetings with the Embassy on June 5, the leaders of both SAM and SYLIMA claimed their strikes were a complete success, and denied that the unions were attempting to delay the certification of the April 26 election results. The strike by judges and prosecutors, who are already perceived by Malians as extremely well-off, is not likely to increase Malians' faith in the judicial system. End Summary.

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A Tale of Two Unions  
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2.(SBU) The Autonomous Union of Magistrates (SAM) - representing Mali's judges and public prosecutors - was created in 1992. In 1997, SAM's founder, Daniel Tousseini, accepted a post with the Ministry of Justice and stepped down from leadership in the labor union. From 1997 to 2003, two figures - Hameye Foune Mahalmadane and Fodie Toure - dominated the leadership of the union. In 2003, Fodie Toure was elected President of SAM. Mahalmadane, then the Secretary General, contested the results of the election. After losing his battle for leadership, Mahalmadane left SAM and created the Free Union of Magistrates (SYLIMA). In a meeting with the Embassy on June 5, Fodie Toure, former President of the National Independent Election Commission (CENI) and still at the head of SAM, indicated that both unions serve the same clientele and essentially have the same objectives. A magistrate has the option of belonging to either one, although to date SAM remains considerably larger, with approximately 250 members to SYLIMA's 100.

3.(SBU) Although SAM and SYLIMA often pursue identical objectives, the tone of the unions is markedly different. The Malian press invariably compares Fodie Toure's "dove" to Hameye Mahalmadane's "hawk." In the June 5 meeting, Toure indicated he doesn't care much for the comparison, but that it is essentially accurate. He prefers to say that while SAM is "respectful," SYLIMA is more "violent." It was plainly evident at the June 5 meetings that there is no love lost between the two union leaders.

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They Never Promised to Keep their Promises  
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5.(SBU) The strikes in May were the culmination of years of failed negotiations between the magistrate unions and the government. As early as 2006, SAM produced a memorandum for

the government outlining concerns, which were resubmitted in the form of negotiating demands in 2007. SYLIMA, likewise, provided a list of negotiating demands to the government in June 2007. The two labor unions demanded that magistrate salaries, which have not changed since 2000, be brought into line with increases in the cost of living. Other demands included updating court infrastructure, providing magistrates with greater access to work related technology like law books and computers, and revising the magistrate code to eliminate anomalies where junior magistrates might receive higher pay than more senior magistrates assigned to other locales.

6.(SBU) During extensive negotiations with the government during 2007, full agreement was reached on the majority of the unions' demands. The government agreed to implement a new payscale effective January 1, 2008, which would provide magistrates a salary ranging from 200,000 to 250,000 CFA (approx. 400-500 USD) per month based on seniority. Before the new payscale was budgeted, however, the government approached the unions and requested a delay in the implementation of the agreement, due to fiscal shortfalls. Both SAM and SYLIMA acquiesced, and a new date of August 1, 2008 was agreed upon. A second delay later postponed the pay increases to January 1, 2009.

7.(SBU) In December 2008, the unions approached government representatives to remind them of the government's engagement. Although assured by the government that the new payscales had been duly budgeted, 2009 arrived with no change in the magistrates' salaries. Further negotiations followed, whereupon the government agreed to implement the new payscale as of October 1, 2009. According to the

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magistrate unions, the government also agreed during those negotiations immediately to sign decrees codifying the increase into law, presumably limiting the government's ability to renege on its agreement. In April 2009, when the government failed to prepare the appropriate decrees, both unions submitted the legally required notice of intent to strike.

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The Spoiled Children of the 3rd Republic  
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8.(SBU) On May 4, SYLIMA and the clerks of court union went on an unlimited strike. SAM followed suit on May 13. The two simultaneous strikes left the Malian judicial system completely paralyzed, with up to 80% of courts closed nationwide according to SAM leader Toure. In addition to delaying all court trials scheduled during the strike period, the clerks of court strike left Malian citizens unable to obtain legal documents such as passports or birth certificates. Many suspects in criminal matters were held without charge for far longer than the 48 hours provided by the law, simply for lack of judges before whom to appear. Some Malian newspapers reported isolated cases of individuals completing jail sentences but remaining behind bars because there was no way to process their release.

9.(SBU) SYLIMA leader Mahalmadane claimed, in his June 5 meeting with the Embassy, that the strike was as successful in pulling public opinion to the magistrates' side as it was in putting pressure on the government. In fact, the opposite is true. Notwithstanding the government's utter inability to keep its agreements with the unions, the majority of the press accounts of the strike were hostile to the unions, focusing on the inconvenience caused Malian citizens. The Malian people are highly suspicious of judges and prosecutors, perceiving the judicial system as hopelessly corrupt. Malian magistrates are widely proclaimed to be the "spoiled children of the 3rd Republic," and the strike was generally perceived as resulting from greed rather than legitimate grievances.

10.(SBU) In addition, allegations surfaced from some quarters that the magistrates were attempting to "take the April 26 election results hostage" in order to improve their bargaining position. Malian electoral law requires that election results be certified by the Constitutional Court after the courts have disposed of all challenges to election results. Critics charged that the Malian magistrates' strike would keep the election results in an untenable and unacceptable limbo, and that this was precisely the unions' intent. SAM leader Toure dismissed this idea as ridiculous, noting that Mali has never in the past had difficulty seating municipal councils while election result challenges are pending. Toure also noted that such challenges usually take two months, so at worst, the strike would only add one month to an already time-consuming process.

11.(SBU) On May 15, less than 72 hours after SAM had gone on strike, the union agreed to return to work on May 18. According to Toure, SAM abandoned its strike because the President of the Supreme Court had secured a promise from President Amadou Toumani Toure personally that the government would adopt decrees necessary to implement the magistrates' pay increases effective October 1, 2009. SAM leader Toure indicated to the Embassy that President Toure had never broken a personal promise to the union since he took office in 2002, and that the union had greater faith in him than in the government representatives they had dealt with previously. Toure and the SAM leadership also reasoned that if the union had already agreed to postpone payment until October 1, there was no need to strike 5 months in advance.

12.(SBU) By contrast, SYLIMA did not abandon its part of the magistrates' strike until June 2, 2009, almost a month after the strike began. The SYLIMA decision came almost immediately after the government implemented decrees hiring "temporary" replacements for the striking magistrates. SYLIMA leader Mahalmadane insisted that the government's action had absolutely nothing to do with their decision to abandon the strike, telling the Embassy instead that the union backed off because a large number of "big personalities" from civil society asked it to do so.

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Can the Government Deliver?  
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13.(SBU) Both Toure and Mahalmadane claimed the strikes were a success, although neither received any additional concessions from the government. Moreover, neither Toure nor Mahalmadane doubt the ability of the government to keep its word and implement the new payscale as of October 1.

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Mahalmadane noted cynically that if one examines the money the government spends on itself, there is no doubt it possesses the resources to keep its word should it choose to do so. Toure, more optimistically, noted that a special commission, comprising members of the bar, the High Council of Islam, and retired judges, are witnesses to the government's agreement and will be able to apply appropriate pressure. It should be noted, however, that this commission has been in place since the negotiations began and has done nothing to inspire the government to keep its word up to this point. Both unions, however, insist their return to work is contingent upon the government keeping its word, and that if decrees authorizing their pay increases are not signed by October 2009, they reserve the right to strike again.

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Comment: Another Blow to the Rule of Law  
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14.(SBU) Unfortunately, Malian magistrates seem to have compounded the mistrust and resentment of the Malian people by holding hostage the judicial system until their own demands are met. Recent allegations that some magistrates

have released decisions favoring the wealthy and politically well connected in spite of the evidence against them have further cast doubt on the impartiality of the judiciary. Thus, even though the magistrates today are victims of unkept government promises, the Malian people have perceived the magistrates' strike not as an act to gain redress for legitimate grievances, but as another example of judicial greed at the expense of Malian society. End comment.

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